

called Schlup v. Auburn Needle Works. The Vencil case involved a man 30 years of age who was employed. His employment consisted of a lot of twisting body and back, bending, stooping, lifting and pushing heavy objects. Due to this employment, the individual developed lumbar disc disease, went to workmen's compensation... filed for workmen's compensation because he could no longer perform his duties, was denied because there was no identifiable point at which his injury or accident occurred. The case went all the way to the Nebraska Supreme Court. The Nebraska Supreme Court denied him compensation. Essentially, the two main categories under which an individual can recover, incidentally, are if an individual is hurt in an accident or develops a disease. And the court has different standards that they apply in those two instances and they found in the Vencil case that his case fit neither of those sufficiently. In the Schlup case, on the other hand, it's involved with an individual, this is a woman, name of Dorothy Schlup. Her employment consisted of a lot of sewing, a lot of handling of garments. She developed carpal tunnel syndrome, very similar fact situation to the Vencil case. What happened though is that the court absolutely reversed itself. They came in and said that Ms. Schlup was eligible to recover workmen's compensation due to the cumulative trauma that she had suffered. There are some very illuminating remarks that have been made in this decision, particularly in a concurring decision by Judge Shanahan in which he points out that the fact situations are virtually identical in these two cases, with one exception, and that is that Ms. Schlup was allowed to recover whereas Mr. Vencil was not. And the simple fact is we need to make clear in Nebraska statutes that cumulative trauma is a condition that exists. It's a condition that can result directly from employment related activities and as such it's a simple matter of fairness that an individual suffering from cumulative trauma ought to be able to recover workmen's compensation. The fact is that the way our statutes are structured right now I believe covers cumulative trauma but the court simply is not interpreting it that way in all cases. They're bringing other factors into play in determining whether an individual ought to be allowed to recover. I think we need to make clear that cumulative trauma can result from occupations, that it is a legitimate occupational disease, that an individual ought to be allowed to recover if direct work-related activities result in cumulative trauma that render the individual otherwise eligible for workmen's compensation. I would urge your adoption of the amendment. Thank you.